APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,057	11/25/2003	Sven Bernhard	11884/408001	4191

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EXAMINER
HOANG, PHUONG N

ART UNIT	PAPER NUMBER
2194	

MAIL DATE	DELIVERY MODE
01/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/720,057	BERNHARD ET AL.
	Examiner	Art Unit
	PHUONG N. HOANG	2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>08 December 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>1 - 14, 16 - 20</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

                    /Li B. Zhen/
                    Primary Examiner, Art Unit 2194

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argued that
1. As to claim 1, Dinallo fails to teach "upon receipt of a request …identifying a peripheral device capable of performing a specific feature corresponding to the feature request" and "executing the native driver of the identifed peripheral device". The cited abstract only is generally inappropriate. In response, applicant conflicted in the argument. Applicant acknowledged that examiner cited both abstract and col. 5 lines 2 - 25. When the request is received (col. 5 lines 1 - 10), when DDInterface identifies the device when it receives data buffer from OO subsystem and calls DDTransport to start the device (col. 5 lines 30 - 65). The start command is to execute the native driver of the selected device (col. 5 lines 40 - 50). Applicant argued that there is only one device driver that is currently communicating. In response, DDInterface can communicate to other device drivers other than the device driver with which DDInterface is presently communicating (col. 5 lines 5 - 10). When the DDInterface would like to select the identifying device, it sends the start command to the device as responded above.
2. As to claim 14, Edmonds does not teach "generic driver interface calls a plurality of generic routines the casue the native driver to execute and control the peripheral device". In response, The generic driver interface is the native driver installed on mobile device (0023). When it create or generate a print job for an appropriate printer-independent postcript for any supported printer, it has to call plurality of generic routines (0024).
3. As to claim 12, Edmonds does not teach the step of "instantiates a connection classs….device".
In response, examiner did not cite Edmonds for teachng instatiates a connection class. It is the combination of Dinallo in view of Edmonds, not any alone, teaches the claimed limitations. See the final rejection above. Examiner cited Dinallo for teaching a connection class including generic routines to connect to peripheral devices (DDinterface class is a base class, title, abstract, figure 3 and associated text, col. 4) the generic routines being independent of device-specific features of the peripheral devices (abstract interface maintain device independence, figures 2 and 6 and associated text)
receiving a request to access one of the peripheral devices (request, col. 5 lines 25);
Edmonds teaches "connecting, through the native driver of the requested peripheral device to execute (the printer driver receives the user-selected printer, the user's print job is directed to that printer, 0007, 0009, 0015, 0022).
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